

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

RAYMOND MCDOWELL, et al.,

Plaintiffs,

v.

Case No. 19-10217

Honorable Victoria A. Roberts

LIVONIA HOTEL BUSINESS, INC., et al.,

Defendants.

**ORDER REGARDING MOTION TO STRIKE PLAINTIFFS' EXPERT  
GRANT [ECF NO. 63] AND FINAL PRETRIAL CONFERENCE**

The Court held a hearing on Defendants' Motion to Strike Plaintiffs' Expert Grant [ECF No. 63], and a Final Pretrial Conference today. Matthew Consolo attended representing Defendants. Issa Haddad attended representing Plaintiffs.

Plaintiffs agreed to withdraw Barry Grant as a witness and withdraw his expert report. Defendants' Motion is moot. However, due to Plaintiffs' failure to timely disclose Grant's expert report, the Court orders Plaintiffs' counsel, to pay Defendants' reasonable expenses, including attorney's fees, caused by the failure. FRCP 37(c)(1)(A).

Several developments arose during the conference. The following witnesses will no longer be included on Plaintiffs' witness lists: Barry Grant,

Robert Toborowsky, Detective Hayne, Officer Alhajar, and Officer Gilmore. Detective Hayne will not testify for Defendants.

Defendants will admit the testimony of Saad Yousif (deceased) into the record via edited transcript. The parties must attempt to resolve their objections.

The following joint exhibits will be admitted: (1) the four minute long 911 call; and (2) the crime scene photographs of Motel Room No. 208, which include pictures of the door, and of McDowell taken by the police. Joint exhibits (4), (5), and (6) must be bates stamped and cut down to only include the relevant portions of the evidence.

Joint exhibit (7), Plaintiff Dorsey's Employment Record from ACU Staffing services, is excluded. Joint exhibits (9) and (10)—McDowell's employment records from LJ Zucca and Skyline Relocation—are excluded.

Joint exhibits (12), (13), and (14) are admissible: the surveillance video from America's Best Inn, picture of McDowell's head at his deposition, and the police body camera of responding officers. There are a total of five videos, two are 2 minutes long, one is 15 minutes, one is 8 minutes, and one is 10 minutes.

Joint exhibits (15-21) are excluded. Exhibit (22) is admissible.

Plaintiffs exhibits (100-106) and (108) are withdrawn. Plaintiffs' exhibit (107) is admissible.

The Court reserves ruling on Defendants' exhibits (1000), (1001), (1002), and (1003). Defendants must provide time stamped video interviews of Antonio Fowler Mitchell as part of exhibit (1001). Defendants must submit exhibit (1004) to the Court for evaluation on hearsay grounds.

The following Michigan model jury instructions will be given to the jury in addition to the instructions agreed upon by the parties: 10.01, 10.02, 10.04, 10.05, 19.03(a)-(b), 15.03, 11.01; and 16.04 with the third paragraph deleted will be given, as amended.

The Court reserves ruling on the following instructions: either 15.04 or 38.10 will be given but not both, and either 38.10 or 38.20 (agency instructions).

Below is a list of outstanding matters:

1. Plaintiffs must edit the deposition testimony of James Grassi, LCSW before trial. Defendants must file their motion to strike Grassi by **Monday, March 21, 2022 at 9:00 am** and Plaintiffs must respond by **5:00 pm March 21, 2022.**
2. The parties must try to work out an agreement regarding the verdict form.

3. The Court will rule on Defendants' Motion to Admit Fowler-Mitchell's Statements [ECF No. 60].
4. The Court will rule on Plaintiffs' proposed Punitive Damages instruction.
5. The Court will rule on whether Defendants may admit McDowell and Dorsey's prior arrests, convictions and prior lawsuit records for impeachment or as substantive evidence.

**IT IS ORDERED.**

s/ Victoria A. Roberts  
Victoria A. Roberts  
United States District Judge

Dated: March 18, 2022